IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

THE UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO.
	)	
CITY OF PHILADELPHIA; and	)	
PHILADELPHIA CITY COMMISSION;	)	06 -4592
	)	
Defendants.	)	
	)	

A TRUE COPY CERTIFIED TO THIS IN THE RECORD
DATE: OCT 13 2006
ATTEST: Steve Tomas
DEPUTY CLERK, UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA

COMPLAINT

Plaintiff, the United States of America, alleges:

1. The Attorney General of the United States hereby files this action to enforce the provisions of Sections 203 and 208 of the Voting Rights Act of 1965, as amended, 42 U.S.C. §§ 1973aa-1a, 1973aa-6, with respect to the conduct of elections in the City of Philadelphia.

JURISDICTION AND VENUE

2. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 1345 and 42 U.S.C. § 1973j(d), (f). The claim pursuant to Section 203 of the Voting Rights Act requires that the action be heard and determined by a court of three judges in accordance with the provisions of 42 U.S.C. § 1973aa-2 and 28 U.S.C. § 2284.

3. Venue for this action is proper in the United States District Court for the Eastern District of Pennsylvania, pursuant to 28 U.S.C. §§ 118, 1391(b).

PARTIES

4. Plaintiff United States of America seeks declaratory and injunctive relief pursuant to Section 204 of the Voting Rights Act, 42 U.S.C. § 1973aa-2, which authorizes the Attorney General to bring this suit to enforce Section 203 of the Voting Rights Act; and the Declaratory Judgment Act, 28 U.S.C. §§ 2201, 2202.

5. Defendant CITY OF PHILADELPHIA ("City" or "Philadelphia") is a political and geographical subdivision of the Commonwealth of Pennsylvania, and is subject to the laws of the Commonwealth and the Voting Rights Act, as discussed below.

6. Defendant PHILADELPHIA CITY COMMISSION is the entity with the statutory powers, duties, and responsibilities concerning the registration of voters and the conduct of Federal, state and local elections in the City. PHILADELPHIA, PA, CODE § 2-112.

FIRST CAUSE OF ACTION

7. Plaintiff restates and incorporates herein the allegations in Paragraph 1 through 6 of this Complaint.

8. According to the 2000 Census, the City of Philadelphia had a total population of 1,517,550 persons, of whom 128,928 (8.5%) were Hispanic. By 2004, the Census estimates that Philadelphia's total population decreased by 103,305 (6.8%) to 1,414,245. The Hispanic community, however, grew by an estimated 11,546 (9%) to a total of 140,474, or approximately ten percent of Philadelphia's population.

9. The 2000 Census further indicates that the total citizen voting age population of Philadelphia was 1,071,785, of whom 70,980 (6.6%) were Hispanic. Among Philadelphia's Hispanic citizens of voting age, 25,660 (36.2%) are limited English proficient.

10. The City of Philadelphia is subject to the requirements of Section 203 of the Voting Rights Act for the Spanish language, pursuant to the designation by the Director of the Census; this determination of the Census Bureau is final and non-reviewable. 42 U.S.C. § 1973aa-1a(b)(2), (b)(4). The City has been continuously subject to the bilingual election requirements of Section 203 since September 18, 1992. See 57 Fed. Reg. 43,213 (Sept. 18, 1992), 67 Fed. Reg. 48,871 (July 26, 2002).

11. The Department of Justice has directly notified Philadelphia officials regarding the bilingual election requirements of the Voting Rights Act, including in letters dated September 21, 1992, and July 26, 2002.

12. Because the City of Philadelphia is subject to the requirements of Section 203, all "registration or voting notices, forms, instructions, assistance, or other materials or information relating to the electoral process, including ballots" that Defendants provide in English must also be furnished in Spanish. 42 U.S.C. § 1973aa-1a.

13. In conducting elections in Philadelphia, Defendants failed to provide in an effective manner election-related materials, information, or assistance in Spanish to limited English proficient Hispanic voters as required by Section 203, including, but not limited to, the following:

    a. Failing to recruit, appoint, train, and maintain an adequate pool of bilingual poll workers capable of providing the same election information and assistance in Spanish to limited English proficient Hispanic voters that it provides in English;

    b. Failing to provide the same election-related materials and information in Spanish that it provides in English, such as information publicizing elections, or to provide an effective alternative method of disseminating such information so that limited

English proficient Hispanic voters are assured an effective opportunity to be informed about election-related activities; and

c. Failing to translate accurately into Spanish election materials and instructions.

14. As a result of Defendants' practices, limited English proficient Hispanic voters have had difficulty understanding the election process and have been prevented from voting.

15. Defendants' failure to provide Spanish language materials, information and assistance, as described above, constitutes a violation of Section 203.

16. Unless enjoined by this Court, Defendants will continue to violate Section 203 by failing to provide limited English proficient Hispanic voters of the City of Philadelphia with the Spanish language materials, information, and assistance necessary for their effective participation in the political process.

SECOND CAUSE OF ACTION

17. Plaintiff restates and incorporates herein the allegations in Paragraph 1 through 16 of this Complaint.

18. Section 208 of the Voting Rights Act ("Section 208 ") provides that "[a]ny voter who requires assistance to vote by reason of blindness, disability, or inability to read or write may be given assistance by a person of the voter's choice, other than the voter's employer or agent of that employer or officer or agent of the voter's union." 42 U.S.C. §1973aa-6.

19. In violation of Section 208, Defendants and their employees and agents failed to allow voters their assistors of choice by:

a) Prohibiting family members, friends, and other assistors of choice from providing assistance to limited English proficient Hispanic voters;

b) Requiring limited English proficient Hispanic voters to be assisted by poll workers who either did not speak Spanish or did not speak Spanish fluently; and

c) Failing to instruct poll workers accurately and adequately on their duty to permit eligible voters to receive assistance from any person of their choice, other than their employers or union officials.

20. Defendants' failure to allow eligible voters to receive necessary assistance from any person of their choice, other than their employers or union officials, as described herein, is a violation of Section 208.

21. Unless enjoined by this Court, Defendants will continue to violate Section 208 by failing to provide eligible Philadelphia voters with the opportunity to receive assistance from persons of the voters' choice and by limiting the scope of assistance voters can receive from their chosen assistors.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff United States of America prays that this Court:

1. With respect to Plaintiff's First Cause of Action:

   a. Declare that Defendants have failed to provide Spanish language election information and assistance necessary to those who require it in Spanish in violation of Section 203 of the Voting Rights Act, 42 U.S.C. § 1973aa-1a;

   b. Enjoin Defendants, their employees, agents, and successors in office, and all persons acting in concert with them, from failing to provide Spanish language election information and assistance to persons with limited English proficiency as required by Section 203, 42 U.S.C. § 1973aa-1a; and

   c. Require Defendants to devise, publicize and implement a remedial plan to ensure that Hispanic citizens are able to participate in all phases of the electoral process as required by Section 203, 42 U.S.C. § 1973aa-1a.

2. With respect to Plaintiff's Second Cause of Action:

   a. Declare that Defendants' practices set forth above violate Section 208 of the Voting Rights Act, 42 U.S.C. § 1973aa-6;

   b. Enjoin Defendants, their employees, agents, and successors in office, and all persons acting in concert with them, from engaging in any act or practice that denies the rights secured by Section 208 of the Voting Rights Act, 42 U.S.C. § 1973aa-6;

   c. Require Defendants to develop and implement a remedial plan to ensure that Philadelphia voters are permitted assistance from persons of their choice when

they cast their ballots, in compliance with Section 208 of the Voting Rights Act, 42 U.S.C. § 1973aa-6.

3. Plaintiff further requests that this Court:

   a. Authorize the appointment of Federal observers for elections held in Philadelphia pursuant to Section 3(a) of the Voting Rights Act, 42 U.S.C. § 1973a(a), until December 31, 2009;

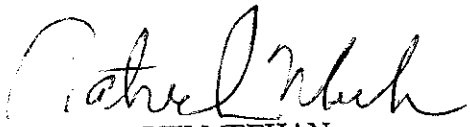
   b. Award Plaintiff the costs and disbursements associated with the filing and maintenance of this action; and

   c. Award such other equitable and further relief as the Court deems just and proper.

Dated: Oct. 13, 2006

ALBERTO GONZALES
Attorney General

By:



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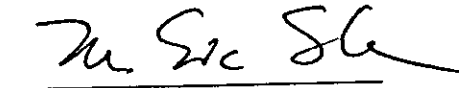

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